

STATUS OF THE CLAIMS

Claims 1-15 are pending in the Application.

Claims 1-15 stand rejected by the Examiner.

REMARKS

Reconsideration of the present Application is respectfully requested.

Response After Final

Entry of this Response is respectfully requested on the ground that this Response places the application in condition for allowance. Alternatively, entry of this Response is respectfully requested on the ground that this Response places the claims in better form and condition for appeal. Furthermore, Applicant submits that any arguments or amendments made regarding the claims do not require an additional search on the part of the Office, nor do any arguments or amendments made herein raise new issues with regard to the patentability of the claims now pending.

Claim Amendments

Applicant has amended claim 1 to more distinctly claim the subject matter that Applicant regards as the invention. Pursuant to the suggestion at page 6 of the present Office Action, amended claim 1 specifies that the first and second planar members each include corresponding predefined tearing regions. Support for this amendment can be found in the Application, for example, at page 5, line 27, to page 6, line 3.

Claim Rejections Pursuant to 35 U.S.C. § 102

Claims 1-8 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Gartner (U.S. Patent No. 5,284,363). Claims 1-8 have also been rejected under 35 U.S.C. § 102(a) as being anticipated by Bernier (U.S. Patent No. 6,637,775). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. § 102 recites, in part:

A person shall be entitled to a patent unless-

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent ...

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States...

Consistently, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See, M.P.E.P. §2131 citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).*

The present Office Action provides,

Claim 1 could be amended to overcome Gartner and Bernier by language like or similar to the following: that the material of the first member includes at least one predefined tearing region, that the material of the second member includes at least one tearing corresponding to the at least one tearing regions of the first member, which the examiner could search. Gartner and Bernier do not teach that the second member includes the structural limitation the material itself including a tearing region.

(Present Office Action at 6.)

By this Amendment and Response, Applicant has so amended claim 1, without prejudice.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 102 (a) and (b) rejections of claim 1, as both Gartner and Bernier fail to teach the invention recited in amended claim 1. Further, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 102 (a) and (b) rejections of claims 2-8, as each of these claims ultimately depend on a patentably distinct independent base claim 1.

Claim Rejections Pursuant to 35 U.S.C. § 103

Claims 9-15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Gartner (U.S. Patent No. 5,284,363), as well as over Bernier (U.S. Patent No. 6,637,775).

Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. § 103(a) recites, in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.


To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

For at least the reasons stated above, the cited references, either separately or in combination, do not teach or suggest each of the limitations of amended independent claim 1, specifically, a substantially planar member that includes at least one predefined tearing region and a second substantially planar member releasably adhered to the first planar member in a peelable and resealable fashion and including at least one predefined tearing region corresponding to said at least one predefined tearing region of said first substantially planar member. Accordingly, Applicant submits that claim 1 is patentably distinguishable over the art of record. Further, Applicant submits that dependent claims 9-15 are likewise in a condition for allowance by virtue of their ultimate dependence on a patentably distinct base claim 1.

CONCLUSION

Wherefore, Applicant believes that all outstanding grounds raised by the Examiner have been addressed and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully Submitted,



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